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TO: Examiner Brian K. Green
USPTO

FROM: Charles B. Lobsenz

FAX NO.: 703.872-9306

RE: RESPONSE TO RESTRICTION
AND PROVISIONAL ELECTION
U.S. Serial No. 10/765,771
Filed January 27, 2004
RMH Docket No. 11632

of PAGES: 4 including cover page

DATE: February 22, 2005

MESSAGE: Response Attached

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No. : 10/765,771 Confirmation No.: 1934
Applicants : Constance C. Trigger
Filed : January 27, 2004
For : PRINTABLE IDENTIFICATION TAG
TC/Art Unit : 3611
Examiner : Brian Green
Docket No. : RMH 11632
Customer No.: 25570

Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

RESPONSE TO RESTRICTION AND PROVISIONAL ELECTION

Sir:

Applicants respond to the Official Action of February 11, 2005 in the above-identified application as follows:

Response/Remarks begin on Page 2 of this paper.

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Response to Restriction

Response/Remarks

The Examiner has subjected the present application to a restriction requirement under 35 USC §121 by identifying the following two claim groups:

Group I. Claims 1-9, drawn to an identification tag, classified in class 40, subclass 665;

Group II. Claims 10-16, drawn to a method of making a tag, classified in class 29, subclass 428.

The Examiner contends that restriction is proper because "the product as claimed can be made by another and materially different process (MPEP § 806.05(f))". The Applicant respectfully traverses this restriction requirement.

The claims of the two identified groups are related as process of making and product made. Accordingly, prosecution of claims of these types in a single application is permitted unless an undue searching burden would be placed upon the PTO in conducting a patentability search with respect to all of these claims. Notwithstanding the Examiner's assertion of differing classifications, it is submitted that any prior art search set up for Group I should be coextensive with any search for Group II because the novel elements (use of heat shrinkable materials, use of a flexible cord, etc.) in the claims of both groups are the same.

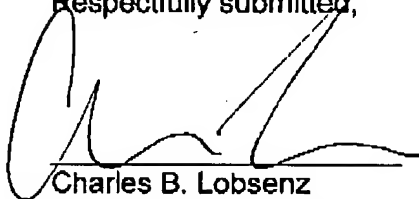
Further, Examiner asserts that the materially different process through which the product of the present invention can be made would involve adhering a flexible cord to the heat shrinkable material presumably before heating, although the Examiner does not specifically state when heating takes place according to the proposed alternative process. Applicant points out that this proposed alternative method would not be functionally desirable since the cord must be attached following the heating step.

In view of the foregoing remarks, it is respectfully requested that the Examiner reconsider and withdraw the requirement for restriction and allow Claims 1-16 to be prosecuted in the same application as directed by MPEP §803. Notwithstanding the above arguments and the request for reconsideration, in the

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event the Examiner's restriction requirement is made final, Applicant hereby provisional elects to prosecute the claims of Group I (Claims 1-9) holding Claims 10-16 (Group II) in abeyance under the provisions of 37 CFR § 1.142(b) until final disposition of the elected claims.

Respectfully submitted,



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Date: February 22, 2005

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